

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of

Broadcast Localism

MB Docket No. 04-233

COMMENTS OF
DIABLO VIDEO ARTS, INC.
CONTRA COSTA COUNTY, CALIFORNIA

Clayton J. Leander, Board Member
Diablo Video Arts, Inc.
c/o Mount Diablo Television
3100 Oak Park Blvd.,
Pleasant Hill, CA 94523

Robert F. Rothgery
Executive Producer, MDTV
Pres., Diablo Video Arts 2003-2004
3100 Oak Park Blvd.,
Pleasant Hill, CA 94523
(925) 930-5632

November 1, 2004

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of

Broadcast Localism

MB Docket No. 04-233

COMMENTS OF

DIABLO VIDEO ARTS, INC.

CONTRA COSTA COUNTY, CALIFORNIA

Diablo Video Arts (DVA) is a nonprofit California Public Service Corporation serving citizens, communities, and institutions across Contra Costa County, California. Since our inception in 1991 as an all volunteer-based community group donating its' expertise for public service video projects, DVA-affiliated producers have worked collectively in developing community-based programming, including but not limited to: coverage of local events, public information and promotional spots for local service agencies, community affairs programs, a long-running live music series featuring local artists, and hundreds of Public Service Announcements (PSAs) for non-profit organizations. Additionally, working and retired professionals associated with DVA have taught the techniques of the various television production crafts to DVA-affiliated producers and volunteers.

Over time, we eventually came to realize that our exercises in production, training, and public-services volunteerism had served to fulfill an important role in helping to bridge sectors of the local community, raise awareness of local culture, educate the public on local issues and resources, and document some of the local history.

Unfortunately, our community of nearly 1 million citizens, has very little access to local cable, radio, and television outlets onto which to transmit our programs. Contra Costa County is geographically positioned within the “B-contour” broadcast signals emanating from four areas (Sacramento, Stockton, San Francisco, and San Jose), with only one television broadcast license currently being used by an operator with no coverage or accountability to our local community; and only one poorly-run community access television channel over the cable network. As such, we are compelled to call the attention of the Commission and the Localism Task Force to our situation, and to demand that improvements be made in the allocation across all the communications spectrums, that would truly promote a worthwhile model of Localism.

Diablo Video Arts, Inc. are members of The Alliance for Community Media (ACM, or Alliance). In the filing of our comments of the Localism docket, we join with the membership representing hundreds of Public, Educational and Government (PEG) access centers in the United States to uphold PEG community access as a successful model for Localism. Diablo Video Arts urges the Commission and the staff of the Localism Task Force to consider, study, and adopt the PEG model for all communications spectrums. In presenting our expertise as local content providers and citizens, we have attached some of the ACM’s remarks for the Commission’s consideration:

There are approximately 5,000 PEG television channels dedicated to localism, education, community affairs, government meetings, and programming by nonprofit entities and individual producers across the country.

These local channels reside on cable systems and exist as part of franchise agreements between local franchising authorities and cable operators. Typically these channels are carried on the basic service tier of the cable system.

Over one million hours of original PEG programming are produced each year and thousands of people are trained to use production equipment and computers at PEG centers. This activity not only enables a diverse range of communication in the local community, but also provides basic technical skills to people who otherwise might not get this training. Alliance members work every day to bridge the “digital divide,” and give people practical skills that can be used to increase employability, acquire education and participate in the democratic process.

I. PEG ACCESS PROVIDES A MODEL FOR LOCALISM THAT COULD BE USED FOR BROADCAST, SATELLITE AND IP-ENABLED MEDIA.

The development of PEG access channels, programming, equipment and services -- adequately funded in many communities by cable operators and local government -- provides a model for localism that could be used for broadcast, satellite and IP-enabled media. Through a locally accountable process, broadcast, broadband wireline, wireless, and satellite transmission capacity --along with financial contributions to a “*Community Media Fund*” by broadcast, cable, satellite and other media service providers -- could be set aside to support local efforts to empower citizens as “sources of information in the electronic marketplace.” Local oversight of such public service media resources -- including radio frequencies, cable- and satellite-delivered channels, and other outlets -- is an essential principle from the cable access model that could be used.

Cable franchising authorities collect compensation for the private commercial use

of public rights-of-way by media corporations. Drawing from that experience, mandatory set asides of local media resources and spectrum should be standardized at ten percent to compensate for private use of public media assets -- similar to the policy of “public green space” set aside for local communities by private land developers. We need some *electronic green space* to be set aside in our current strip mall of commercial media.

Where franchising authorities have negotiated agreements with cable operators to adequately address local needs, community groups and individuals from all walks of life now produce over one million hours of original, non-commercial, local programming each year. This is happening on cable systems in communities from coast to coast, in large cities such as New York City and Chicago and in smaller communities such as Germantown, Tennessee and Monterey, California.

Cable access programmers have many exceptional stories to tell about their efforts and daily achievements in presenting "programming that is responsive to the interests and needs of their communities." The FCC could help to fulfill its educational role by distributing information about such local programming activities that are occurring throughout the U.S. on broadcast and cable access stations. Such examples could inspire similar efforts in other communities.

II. COMMERCIAL MEDIA ALONE DO NOT ADEQUATELY SERVE LOCAL COMMUNITY NEEDS AND INTERESTS, AND CONSOLIDATED OWNERSHIP EXACERBATES THE PROBLEM.

With very few exceptions, the commercial media marketplace does not currently support non-commercial speech. While a few examples of responsible and admirable efforts by broadcasters (e.g., the Hearst-Argyle stations) have been presented with great

pride to the FCC during its Localism hearings, continuation of the Commission's permissive attitude regarding ownership consolidation could easily lead to the demise of these few remaining points of light. What would happen if another media corporation -- one with a very different local programming philosophy -- decided to buy the Hearst-Argyle group? As recent consolidation history reveals, the help wanted ads would soon be scrutinized by many highly regarded but no longer needed journalists, fresh victims of the consolidation frenzy.

PEG access veterans have had first-hand experience with the effect of media consolidation on local programming efforts. Until they were bought in the 1990s, cable MSOs like American Cablesystems and Continental Cablevision offered a relatively welcoming approach to local programming in many of the communities that they served. The corporate leadership of those firms included individuals who strongly supported the development of local programming activities, and often regarded such programs as important elements of the company's effort to stand apart from their competitors. That attitude is now a distant memory. The top three cable MSOs that currently control well over half (almost 40 million) of the cable subscribers in the U. S. -- Comcast, Time Warner and Cox -- have lengthy track records of actively and ardently opposing efforts by communities to adequately develop and support PEG Access operations. (Skeptics should contact local government officials in San Jose and other Bay Area communities in California to hear how Comcast has been resisting such efforts.)

Local communities require their own voices. Congress and the FCC must protect local media and uphold the public interest. Without this intervention, the needs and interests of distinct local communities, especially lower-income people and minority

groups who lack buying power, are ignored or misrepresented as a result. The best way to promote locally-oriented programming is to set aside bandwidth and spectrum and secure adequate funds to support the development of a variety of non-commercial, public service media in every community.

III. LOCALISM PROVIDED BY PEG

The lack of local public affairs programming on traditional media outlets has been well-documented. In April 1998, the Media Access Project and the Benton Foundation published a report, *What's Local about Local Broadcasting?*

(www.benton.org/Television/whatslocal.html), that surveyed stations in selected markets regarding the amount of local public affairs programming aired weekly. The survey found that, in the five markets examined (Chicago, IL; Phoenix, AZ; Nashville, TN; Spokane, WA; and Bangor, ME), 40 commercial broadcasters provided 13,250 total hours of programming - just 0.35% (46.5 hours) were devoted to local public affairs over a two-week period. Moreover, the survey found that 35% of the stations provided no local news, and 25% offered neither local public affairs programming nor local news.

An expanded Benton Foundation study done in early 2000 (www.benton.org/publibrary/television/lpa.pdf) looked at 24 markets and undertook a random sample of 112 commercial broadcast stations to analyze local public affairs on those stations. The study found that 0.3 percent of the total commercial broadcast time within these markets was devoted to local public affairs programming.

In November of 2003, the Alliance for Better Campaigns published a study on local television (<http://bettercampaigns.org/reports/display.php?ReportID=12>) that found the same result in six cities where the FCC held hearings on localism. The study found

that local public affairs accounted for 0.4% of the programming on the 45 local television stations studies in six cities.

The “Local TV Coverage of the 2002 Elections” report (<http://learcenter.org/pdf/LCLNAReport.pdf>) by the Lear Center Local News Archive illustrates -- in sobering detail --how local broadcast TV stations have largely abandoned any real efforts at serving local community needs and interests.

In contrast to these findings, the Diablo Video Arts organization has been advocating for a model for community media, as exemplified by the Santa Rosa Community Media Center. Serving a community of 180,000, the Community Media Center is a multi-purpose facility that handles the production and distribution of community media through the three access channels. Equipped with a 3-camera production studio with a full lighting grid, blue-screen, and room enough for a small audience; several non-linear edit systems; and a “Live-Link” studio (single user/2 camer switch), community members and non-profit organizations can be certified to use the facilities and remote field packages after receiving full hands-on training. Upon joining the program, each member is assigned a mentor who will help guide them through the program and the various phases needed to complete their projects. The facility, program, and over-all environment certainly made for a true community-oriented approach to learning, teaching, and participating in video production.

Production and programming activity is centered around fulfilling community needs and interests, as thoroughly researched by the City of Santa Rosa. This includes gavel-to-gavel coverage of local government meetings and election forums, school board meetings, public health, outreach for non-profit organizations, telecourses shown by local

educators for distance-learning and home-bound students, and other public media offerings. Additionally, the SRCMC has implemented programs designed to educate the youth and public on the area of “Media Literacy”. Add to this the “tele-training” for the fire department, an internship program, partnerships with the school district and the community college, and we see just a few examples which help make for a vibrant community media program.

In his remarks to the Voice on the Net Conference in Boston on October 19, 2004 Chairman Powell described how the public access organization in New York City (Manhattan) was serving the local community. He noted:

“In addition to individual empowerment, local communities are revived as well. Last week, I was in New York City and visited a wonderful studio called the Manhattan Neighborhood Network. It provided facilities to allow average citizens to produce their own programs for airing on public access channels. It allowed members of the community to check out top quality video cameras, once only available to the most sophisticated news operations. It taught citizens to produce and edit programs on desktop computers, using off-the-shelf software. In all, MNN says it has over 1200 “producers” from the community who cover issues unique to their locality. I was interviewed by some kids who were running their own Youth Channel and talked with some of them over publicly available WiFi hotspots. They had used these hot spots to collect footage remotely and transmit from all over the city. This is technology for the masses.”

IV. THE FCC SHOULD COMMISSION STUDIES WHICH EVALUATE THE POLICIES AND PRACTICES OF PEG ACCESS AND THE REGULATORY GOAL OF LOCALISM

The current Notice of Inquiry states that the Commission seeks “comment on any other rules, policies or procedures not specifically reviewed below, that might be relevant to our objectives.”(p. 4) A review of the NOI clearly indicates that, for the most part, the Commission has limited its consideration of policies on localism to those related to structural and behavioral rules for licensed broadcasters with no consideration whatsoever of the larger communications framework, which includes non-commercial media, like PEG access. Considering that the goal of providing service to local communities is primary for many non-commercial media organizations, any thorough evaluation of what policies and practices might best promote localism should include an evaluation of non-commercial media like PEG access. DVA urges the Commission to rectify this oversight by commissioning studies that can evaluate the methods used by PEG access to promote localism, compare and contrast these practices and their outcomes with those of commercial broadcasters, and explore the potential for expanding the PEG access model across other media platforms.

CONCLUSION

Chairman Powell included the following comment in his statement that accompanied the NOI:

“Fostering localism is one of this Commission’s core missions and one of three policy goals, along with diversity and competition, which have driven much of our radio and television broadcast regulation during the last 70 years. “

Diablo Video Arts believes that the best way to foster localism and promote

locally-oriented programming is to ensure local and diverse ownership, and to set aside bandwidth and spectrum with adequate operating support for non-commercial, public service media in every community.

Local public interests are at risk as Congress and the FCC reshape the regulatory landscape for media. State and local governments in communities across America must have meaningful and well-defined roles to adequately protect media consumers and to effectively advocate for local needs and interests to be met.

As the federal government continues to consider governmental responsibilities that can be successfully transferred to state and local governments, PEG access provides an exemplary model of how services essential to the public welfare can be provided. Decisions about the operation of PEG access channels and facilities are made entirely at the local level. This simple and effective regulatory model should be applied to all media service-providers, to help ensure that programming reflects local interests and meets local needs.

Respectfully submitted,

Clayton J. Leander, Board Member
Diablo Video Arts, Inc.
c/o Mount Diablo Television
3100 Oak Park Blvd.,
Pleasant Hill, CA 94523

Robert F. Rothgery
Executive Producer, MDTV
Pres., Diablo Video Arts 2003-2004
3100 Oak Park Blvd.,
Pleasant Hill, CA 94523
(925) 930-5632

November 1, 2004